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Sub-Commission on Prevention of
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of Minorities
Working Group on Indigenous Populations
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FUTURE ROLE OF THE WORKING GROUP

Note by the Chairperson-Rapporteur of the Working Group
on Indigenous Populations

1. The Working Group on Indigenous Populations, during its tenth session, decided that the "Future role of the Working Group" should be considered as a separate item of the agenda at its eleventh session (see E/CN.4/Sub.2/1992/33, para. 196).

2. The World Conference on Human Rights, in its Declaration, also recommended that the Commission on Human Rights consider the renewal and updating of the mandate of the Working Group upon completion of the drafting of a declaration on indigenous people (A/CONF.157/22, Sect. II, para. 29). In the same paragraph, it also recommended that the General Assembly, in the framework of an international decade of the world's indigenous people, consider establishing a permanent forum for indigenous people. Consequently, the Chairperson-Rapporteur of the Working Group submits the following note as a basis for discussion under the aforementioned agenda item.

3. Reference may be made first of all to the resolution in accordance with which the Working Group, was established. In its resolution 1982/34 of 7 May 1982, the Economic and Social Council authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish

annually a working group in order (i) to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission; and (ii) give special attention to the evolution of standards concerning the rights of indigenous populations, taking account of both the similarities and the differences in the situations and aspirations of indigenous populations throughout the world.

4. In connection with the first part of its mandate, the Working Group has received detailed written information and heard numerous oral statements from Governments, intergovernmental and non-governmental organizations and indigenous peoples. The information received has been generally of a high quality and has allowed the members of the Working Group to have a greater understanding of the situation of indigenous peoples in the world.

5. It should be restated that the Working Group is not a chamber for receiving complaints or communications and cannot accept petitions or take any action as a result of the information provided. None the less, the information provided by participants is useful in providing more knowledge about specific situations and, in particular, problems faced by indigenous people. The information helps the members of the Working Group to determine new areas of research and study and possible future expert meetings, which they can then recommend to the parent bodies. The cases brought to the attention of the Working Group have been useful in the discussions relating to the standard-setting part of the mandate, helping members to elaborate principles and to adopt recommendations which protect fully the rights of indigenous peoples.

6. Under the second part of the mandate, the Working Group has concentrated its efforts on elaborating a draft declaration on the rights of indigenous peoples. The draft is now reaching completion at the level of the Working Group, after the submission by the Chairperson-Rapporteur of the revised working paper (E/CN.4/Sub.2/1993/26). However, this should not mean that the Working Group drops its responsibility for the declaration which it has so carefully considered over the last five years. There is certainly a role for the Working Group in providing a relevant commentary on the provisions of the draft declaration. Indeed, the Working Group might be said to have a further responsibility to hold meetings in regions where indigenous peoples live, so that their views can be heard. Such a recommendation was made by the Sub-Commission in its resolution 1992/33.

7. In addition to the two parts of its mandate, the Working Group, has also considered a number of other related issues. These include a report of the Secretary-General on economic and social relations between States and indigenous peoples (E/CN.4/Sub.2/1992/29) and a report on the intellectual

property of indigenous peoples (E/CN.4/Sub.2/1992/30). Two members of the Working Group were appointed as Special Rapporteurs to consider questions of importance to indigenous peoples. Mr. Miguel Alfonso Martínez is preparing a study of treaties, agreements and other constructive arrangements between States and indigenous peoples and Ms Erica-Irene Daes is finalizing a study on the cultural and intellectual property of indigenous peoples. It may also be noted that the Working Group recommended the creation of a voluntary fund to assist indigenous people without adequate means to attend its sessions. The Voluntary Fund for Indigenous Populations was established in 1986.

8. Three expert meetings have been held following recommendations of the Working Group:

(a) A meeting of experts on the effects of racism and racial discrimination on social and economic relations between indigenous peoples and States was held at Geneva in January 1989;

(b) In September 1991, the Meeting of Experts to review the experience of countries in the operation of schemes of internal self-government of indigenous peoples was held at Nuuk, Greenland;

(c) In May 1992, the Technical Conference on Practical Experience in the Realization of Sustainable and Environmentally Sound Self-Development of Indigenous Peoples was held at Santiago, Chile.

9. The recommendation to proclaim an international year of indigenous peoples was first made by the Working Group in 1987. Following the proclamation by the General Assembly in resolution 47/75 of 1993 as the International Year of the World's Indigenous People, a member of the Working Group, Ms. C. Mbonu, and a member of the Sub-Commission, Mr. A. Eide, co-authored two working papers on possible activities for the Year.

10. It should be borne in mind that the Working Group is the only forum within the United Nations system where indigenous people can raise issues of concern to them. There are only 12 indigenous peoples' organizations with consultative status with the Economic and Social Council; only one of these is from Latin America and none is from the Asian and Pacific region. The liberal spirit of open discourse of the Working Group means that indigenous representatives, whether or not they belong to a non-governmental organization, may participate fully in its deliberations. Indigenous peoples themselves have stated that the Working Group is a vital forum for the discussion of their concerns and as the Chairperson-Rapporteur has said, it is their main gateway to the United Nations and the rest of the world.

11. In discussing the future role and work of the Working Group on Indigenous Populations, the Chairperson-Rapporteur proposes the following possible areas and subjects for consideration:

(a) Preparation of an annual thematic report on indigenous peoples for circulation to the United Nations system and as a sales item;

(b) Contribution to the elaboration of a medium-term programme consisting of meetings, research activities, publications, technical assistance and other activities;

(c) Contribution to the development of a research project relating to the improvement of the availability and the means of dissemination of socio-economic data on the development needs of indigenous people, as noted by the General Assembly in its resolution 47/75;

(d) Cooperation with indigenous research bodies to further the knowledge of the United Nations system on this issue;

(e) Holding its meetings in regions where large numbers of indigenous people live;

(f) Contribution to the implementation of the future declaration on the rights of indigenous peoples;

(g) Elaboration of other draft international instruments and guidelines in specific areas, for example relating to the cultural and intellectual property of indigenous peoples, in accordance with the recent relevant report (E/CN.4/Sub.2/1993/28) prepared by the Special Rapporteur and author of the present note, development assistance or the activities of transnational corporations;

(h) Cooperation with the advisory services of the Centre for Human Rights to enable indigenous peoples and communities to benefit from technical assistance;

(i) Authorization by the Economic and Social Council or the General Assembly for the Working Group to receive communications from indigenous individuals, complaining that their rights have been violated;

(j) Review of the mandate and the competence of the Voluntary Fund for Indigenous Populations as contained in General Assembly resolution 40/131 so that finance can be provided to indigenous people to attend other United Nations meetings and to assist with other projects relevant to them.

12. Consideration could also be given to the possible reconstitution of the Working Group itself. A number of suggestions have been made in this regard. For example, it has been suggested that:

(a) The Working Group could report to a higher body in the United Nations system, such as the Economic and Social Council;

(b) The Working Group could be re-established as an expert committee (similar to the Committee on Economic, Social and Cultural Rights) and include in its membership representatives of indigenous peoples;

(c) The name of the Working Group could be changed to "Working Group on Indigenous Peoples";

(d) The Working Group could be asked to evaluate United Nations activities as they affect indigenous peoples and to promote means by which such activities might be coordinated;

13. It is imperative that recommendations concerning the future role and work of the Working Group be adopted during the eleventh session of the Working Group. This will constitute a valuable contribution by the present members of the Working Group and the Sub-Commission to the International Year of the World's Indigenous People and to the protection of their basic human rights and fundamental freedoms.